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(Original Signature of Member)

117TH CONGRESS
1ST SESSION

H. RES.

Impeaching Alejandro Nicholas Mayorkas, Secretary of Homeland Security,
for high crimes and misdemeanors.

IN THE HOUSE OF REPRESENTATIVES

Mr. BIGGS submitted the following resolution; which was referred to the
Committee on _____

RESOLUTION

Impeaching Alejandro Nicholas Mayorkas, Secretary of
Homeland Security, for high crimes and misdemeanors.

1 *Resolved*, That Alejandro Nicholas Mayorkas, Sec-
2 retary of Homeland Security, is impeached for high crimes
3 and misdemeanors and that the following articles of im-
4 peachment be exhibited to the United States Senate:

5 Articles of impeachment exhibited by the House of
6 Representatives of the United States of America in the
7 name of itself and of the people of the United States of
8 America, against Alejandro Nicholas Mayorkas, Secretary
9 of Homeland Security, in maintenance and support of its

1 impeachment against him for high crimes and mis-
2 demeanors.

3 ARTICLE I

4 Alejandro Nicholas Mayorkas, in his conduct while
5 Secretary of Homeland Security, engaged in a pattern of
6 conduct that is incompatible with his duties as an Officer
7 of the United States, as follows:

8 Secretary Mayorkas took an oath to defend and se-
9 cure our country and uphold the Constitution when he was
10 sworn in as Secretary of Homeland Security on February
11 2, 2021. Article II of the U.S. Constitution tasks the Ex-
12 ecutive branch—which today includes the Secretary of
13 Homeland Security—with ensuring the laws passed by
14 Congress and signed into law by the President are faith-
15 fully executed.

16 Secretary Mayorkas has failed to faithfully uphold his
17 oath and has instead presided over a reckless abandon-
18 ment of border security and immigration enforcement, at
19 the expense of the Constitution and the security of the
20 United States. Secretary Mayorkas has violated, and con-
21 tinues to violate, this requirement by failing to maintain
22 operational control of the border and releasing hundreds
23 of thousands of illegal aliens into the interior of the United
24 States.

25 Secretary Mayorkas has willfully refused to maintain
26 operational control of the border as required by the Secure

1 Fence Act of 2006. His actions have directly led to an
2 increase in illegal aliens and illegal narcotics, including
3 deadly fentanyl, entering the United States.

4 The Secure Fence Act of 2006 (Public Law 109–367)
5 requires the Secretary of Homeland Security to take all
6 actions “necessary and appropriate to achieve and main-
7 tain operational control over the entire international land
8 and maritime borders of the United States[.]” The Act
9 defines “operational control” as the “prevention of all un-
10 lawful entries into the United States, including entries by
11 terrorists, other unlawful aliens, instruments of terrorism,
12 narcotics, and other contraband.”

13 During the Trump Administration, the Department
14 of Homeland Security constructed approximately 450
15 miles of new and replacement border wall system; an addi-
16 tional 285 miles were either under construction or in the
17 pre-construction phase at the end of the Trump Adminis-
18 tration in January 2021. Under Secretary Mayorkas’s di-
19 rection, the Department of Homeland Security terminated
20 contracts for additional border wall construction despite
21 funds being appropriated by Congress for this purpose.
22 His decision has left key portions of the southern border
23 unsecure and cost American taxpayers billions of dollars.

24 Secretary Mayorkas has willfully violated the Immi-
25 gration and Nationality Act (8 U.S.C. 1101 et seq.) by

1 releasing illegal aliens into the interior of the United
2 States despite the plain language of the Act, which re-
3 quires the Secretary of Homeland Security to detain inad-
4 missible aliens arriving into the United States or aliens
5 who are present in the United States without inspection
6 while such aliens are processed under expedited removal
7 or placed in removal proceedings. The Secretary of Home-
8 land Security does not have the option of simply releasing
9 those aliens into the interior of the United States.

10 Secretary Mayorkas reinstituted the catch and re-
11 lease policies of the Obama administration and has even
12 released inadmissible aliens into the interior of the United
13 States without issuing the aliens notices to appear for im-
14 migration proceedings. He is relying on the aliens to re-
15 port on their own volition to U.S. Immigration and Cus-
16 toms Enforcement offices to be placed into removal pro-
17 ceedings, a practice that violates the law and defies logic
18 and common sense. Department of Homeland Security
19 data show that over 80 percent of these released illegal
20 aliens are failing to report to a U.S. Immigration and Cus-
21 toms Enforcement field office.

22 On May 13, 2021, Secretary Mayorkas admitted dur-
23 ing testimony before the Senate Committee on Homeland
24 Security and Governmental Affairs that U.S. Customs and
25 Border Protection was releasing inadmissible aliens, whom

1 the Department of Homeland Security is required to de-
2 tain, into the interior of the United States. This was an
3 admission that under his direction, the Department of
4 Homeland Security is violating the law.

5 Secretary Mayorkas terminated the Migrant Protec-
6 tion Protocols, which provided a lawful pathway to process
7 claims and served as a deterrent to illegal immigration and
8 aliens making fraudulent asylum claims.

9 Secretary Mayorkas has even refused to tell aliens not
10 to attempt to enter the United States illegally. During a
11 White House press briefing on March 1, 2021, Secretary
12 Mayorkas stated, “We are not saying, ‘Don’t come.’”

13 As a result of Secretary Mayorkas’s actions and poli-
14 cies, the border and the country are less secure today than
15 when he began serving as Secretary. U.S. Customs and
16 Border Protection encounters have increased each month
17 since he became Secretary. Since February 2021, more
18 than 800,000 aliens have been encountered by U.S. Cus-
19 toms and Border Protection personnel at the southwest
20 land border. This number does not include the increasing
21 number of “got aways”, aliens who have evaded Border
22 Patrol apprehension, of which there have been estimated
23 to be approximately 1,000 per day.

1 In addition to illegal aliens, Secretary Mayorkas's
2 policies have led to a significant increase in illegal drug
3 smuggling across the southern border.

Secretary Mayorkas's actions have made the border less secure and encouraged aliens to enter the United States illegally, instead of taking actions to maintain operational control of the border. His actions have subverted the will of Congress and the core tenants of the Constitution.

Wherefore, Alejandro Nicholas Mayorkas, by such
conduct, warrants impeachment and trial, and removal
from office.

13 ARTICLE II

Alejandro Nicholas Mayorkas, in his conduct while Secretary of Homeland Security, engaged in a pattern of conduct that has placed departmental personnel and American citizens at risk of exposure to and contracting COVID-19, by refusing to take necessary steps to prevent potentially contagious illegal aliens from entering the United States.

On March 20, 2020, the Centers for Disease Control and Prevention issued an order, pursuant to sections 362 and 365 of the Public Health Service Act (commonly known as “title 42”) (42 U.S.C. 265 and 268), suspending the right to introduce certain persons into the United States from countries where a quarantinable commu-

1 nicable disease exists. This order has been extended mul-
2 tiple times since it was first issued, most recently on Au-
3 gust 2, 2021. According to the Centers for Disease Con-
4 trol and Prevention, this order is necessary “to protect
5 the public health from an increase in the serious danger
6 of the introduction of Coronavirus Disease 2019 (COVID-
7 19) into the [ports of entry] POEs, and the Border Patrol
8 stations between POEs, at or near the United States bor-
9 ders with Canada and Mexico.”

10 The law requires Border Patrol agents and other
11 U.S. Customs and Border Protection officers to enforce
12 the order. Despite this requirement, Secretary Mayorkas
13 has refused to faithfully implement this order, as evi-
14 denced by the increasing number of aliens processed by
15 U.S. Customs and Border Protection under title 8, United
16 States Code, instead of expelled pursuant to sections 362
17 and 365 of the Public Health Service Act (commonly
18 known as “title 42”) (42 U.S.C. 265 and 268). According
19 to U.S. Customs and Border Protection data from Feb-
20 ruary 2021, approximately 26 percent of aliens encoun-
21 tered by the Border Patrol were processed pursuant to
22 such title 8 instead of pursuant to sections 362 and 365
23 of the Public Health Service Act (commonly known as
24 “title 42”) (42 U.S.C. 265 and 268), and in June 2021,

1 nearly 42 percent of aliens encountered by Border Patrol
2 were processed pursuant to such title 8.

3 If the Secretary of Homeland Security is unable to
4 expel aliens pursuant to sections 362 and 365 of the Pub-
5 lic Health Service Act (commonly known as “title 42”)
6 (42 U.S.C. 265 and 268), the Secretary should not release
7 aliens into the interior of the United States where they
8 can spread COVID-19. However, instead of detaining
9 aliens as required by law, under Secretary Mayorkas’s di-
10 rection, the Department of Homeland Security has re-
11 leased and transported hundreds of thousands of aliens
12 into the interior of the United States without properly
13 screening the aliens for COVID-19 to ensure that the
14 aliens would not spread COVID-19. In many other cases,
15 aliens known by the Department of Homeland Security
16 to have COVID-19 were released into the interior of the
17 United States. These actions have subjected the American
18 people to unnecessary and avoidable risks and have
19 strained border communities’ limited health services and
20 resources.

21 In failing to use authority under sections 362 and
22 365 of the Public Health Service Act (commonly known
23 as “title 42”) (42 U.S.C. 265 and 268) to the fullest ex-
24 tent possible, and by releasing potentially contagious
25 aliens into the interior of the United States and trans-

1 porting said aliens throughout the United States, Sec-
2 retary Mayorkas has placed Department of Homeland Se-
3 curity personnel and the American people at risk. Sub-
4 jecting Department of Homeland Security personnel and
5 the American people to these risks is unnecessary, avoid-
6 able, and a violation of Secretary Mayorkas's duty.

7 Wherefore, Alejandro Nicholas Mayorkas, by such
8 conduct, warrants impeachment and trial, and removal
9 from office.